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SUPREME COURT, U.S.

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

LORETTA STARVUS STACK, AL  
RICHMOND; PHILIP MARSHALL  
CONNELLY, DOROTHY ROSENBLUM  
HEALEY, ERNEST OTTO FOX,  
WILLIAM SCHNEIDERMAN, CARL  
RUDE LAMBERT, HENRY STEINBERG,  
OLETA O'CONNOR YATES, ROSE  
CHERNIN KUSNITZ, MARY BERNADETTE  
DOYLE and ALBERT JASON LIMA,

Petitioners-Appellants,

-vs-

JAMES J. BOYLE, United States  
Marshal,

Respondent.

No.

TRANSCRIPT OF RECORD ON APPEAL

(HENRY STEINBERG)

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Notice Of Appeal

Designation Of Record

1 MARGOLIS and McTERNAN  
112 West Ninth Street.  
2 Los Angeles 15, California.  
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3 and  
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7  
8 IN THE UNITED STATES DISTRICT COURT  
9 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
10 CENTRAL DIVISION

11 **HENRY STEINBERG**

12 Petitioner,

13 v.

14 JAMES J. BOYLE, United  
States Marshal,

15 Respondent.  
16

No. 13443-PH

PETITION FOR WRIT OF  
HABEAS CORPUS

17  
18 TO THE JUDGES OF THE UNITED STATES DISTRICT FOR THE SOUTHERN  
19 DISTRICT OF CALIFORNIA, CENTRAL DIVISION:

20 **Henry Steinberg**, the petitioner above named  
21 hereby petitions this honorable Court for a writ of habeas corpus  
22 directing the respondent James J. Boyle, United States Marshal  
23 for the Southern District of California, in whose custody peti-  
24 tioner is now restrained of his liberty, to produce the body of  
25 your petitioner, **Henry Steinberg** before this Court at  
26 a time and place specified and then and there to show cause why  
27 petitioner should not be released from the custody of the re-  
28 spondent upon bail in such reasonable sum as may be determined  
29 by this Court; and in support thereof, your petitioner alleges  
30 as follows:

31 I.

32 On July 26, 1951, your petitioner was arrested at his home



1 in the city of Los Angeles, County of Los Angeles, State of Calif-  
2 ornia, upon a warrant issued July 25, 1951 by Howard V. Calverley,  
3 United States Commissioner in the Southern District of California,  
4 pursuant to a complaint charging your petitioner and one William  
5 Schneiderman with conspiracy to commit offenses against the United  
6 States prohibited by Section 2 of the Smith Act, 54 Stat. 671.

7 II.

8 Following petitioner's arrest and on July 26, 1951, your  
9 petitioner was arraigned before said United States Commissioner and  
10 by said Commissioner was ordered to be held in the custody of the  
11 respondent herein upon bail fixed by said Commissioner in the sum  
12 of \$75,000 and by virtue of such order your petitioner was confined  
13 in the County Jail of the County of Los Angeles in the custody of  
14 said respondent on said day and where petitioner has continuously  
15 remained until the present time.

16 III.

17 Thereafter and on or about July 27, 1951, your petitioner  
18 filed a petition for writ of habeas corpus in this Court praying  
19 that the writ issue and that your petitioner be released from the  
20 custody of the respondent upon reasonable bail in order that peti-  
21 tioner might properly prepare petitioner's defense and because the  
22 fixing of excessive bail by the United States Commissioner consti-  
23 tuted a violation of the rights guaranteed to him by the Consti-  
24 tution of the United States.

25 IV.

26 An order to show cause why the said petition for writ of  
27 habeas corpus should not be granted was signed by Honorable Leon  
28 R. Yankwich, a judge of this Court on July 27, 1951 and made re-  
29 turnable before said Court on July 31, 1951 at 10 A.M.

30 V.

31 Upon information and belief, the United States Attorney  
32 summoned the Grand Jury to convene on July 31, 1951 at 9 A.M. and

1 in the space of about fifteen minutes, the said Grand Jury re-  
2 turned the indictment herein charging your petitioner together  
3 with eleven other named defendants with conspiracy to violate  
4 Section 2 of the Smith Act, 54 Stat. 671.

5 VI.

6 That on July 31, 1951 when your petitioner's petition for  
7 writ of habeas corpus came on for hearing, the Court was informed  
8 by the United States Attorney that an indictment had been returned  
9 and that for the aforesaid reason, the hearing on the petition for  
10 writ of habeas corpus before the Court had become moot, and that  
11 thereupon the Court discharged the order to show cause why the  
12 petition for writ of habeas corpus should not be granted.

13 VII.

14 Thereupon, and on the same day, your petitioner was taken be-  
15 fore the Honorable James M. Carter, a judge of this Court before  
16 whom the indictment was returned and the said Court then announced  
17 that it was fixing bail in an amount recommended by the Grand Jury.  
18 Upon information and belief, the true bill returned against the  
19 defendants including your petitioner contained no recommendation  
20 by the Grand Jury relative to bail. Upon information and belief,  
21 the names of the defendants were written on a copy of the indict-  
22 ment with the notation of \$75,000 for all defendants except the  
23 defendant, William Schneiderman, where the notation was \$100,000,  
24 and that these writings were unsigned.

25 VIII.

26 Thereafter, and on August 6, 1951, your petitioner moved in  
27 the United States District Court for the Southern District of  
28 California, Central Division, to fix bail in a reasonable sum or  
29 if bail had been fixed in the sum of \$75,000 as aforesaid, then  
30 for a reduction of this excessive bail to a reasonable amount.

31 IX.

32 On August 6, 1951, the aforesaid motion to fix or reduce bail



1 came on for argument before the Honorable James M. Carter, United  
2 States Judge for the Southern District of California, Central Divi-  
3 sion.

4 X.

5 Before the commencement of the argument of the motion to fix  
6 or reduce bail your petitioner along with the other defendants  
7 named in the indictment herein except William Schneiderman filed  
8 with the said Court an affidavit of personal bias and prejudice and  
9 requested the said Court to disqualify itself and to transfer the  
10 hearing on bail to another judge of the District Court pursuant to  
11 the provisions of 28 U.S.C.A. section 144; that said Judge de-  
12 clined to disqualify himself and held the affidavit of personal  
13 bias and prejudice legally insufficient on August 7, 1951.

14 XI.

15 That thereupon, and at the request of counsel for one of the  
16 defendants herein, Philip Marshall Connelly, the said Judge James  
17 M. Carter withheld his ruling on the said Connelly's motion to fix  
18 or reduce bail until an application could be made to the United  
19 States Court of Appeals for the Ninth Circuit for a ruling on the  
20 sufficiency of the aforesaid affidavit of bias and prejudice.

21 XII.

22 That thereafter, the motion to fix or reduce bail on your  
23 petitioner's behalf was argued before the said Judge and on August  
24 8, 1951 your petitioner's bail was fixed at the sum of \$50,000.

25 XIII.

26 Thereafter, on August 13, 1951, your petitioner filed a peti-  
27 tion for writ of habeas corpus in this Court praying that the writ  
28 issue and that petitioner be released from the custody of the res-  
29 pondent upon reasonable bail, and on the said day the writ was  
30 issued by the Honorable William C. Mathes, a Judge of this Court  
31 and made returnable before said Judge on August 15, 1951.

XIV.

On August 15, 1951 the said writ came on for hearing before the said Judge William C. Mathes, and after hearing, and by order dated August 17, 1951, the said petition was dismissed and the writ discharged.

XV.

On August 18, 1951, your petitioner filed a notice of appeal to the United States Court of Appeals for the Ninth Circuit from the aforesaid order discharging the writ of habeas corpus.

XVI.

Thereafter, and on August 24, 1951, the United States Court of Appeals rendered its decision on the application of the defendant herein, Philip Marshall Connelly, to disqualify the aforesaid Judge James M. Carter, and the said Court did hold that the aforesaid affidavit of bias and prejudice was legally sufficient and ordered the said Judge to proceed no further respecting the said Connelly's bail proceedings or in connection with the said Connelly's prosecution under the indictment.

XVII.

In view of the decision of the Court of Appeals, and because of the doubt created thereby as to whether the said Judge James M. Carter had the power or jurisdiction originally to fix or reduce bail for petitioner or the other petitioners herein, after the aforesaid joint affidavit of bias and prejudice was filed, the petitioner decided to withdraw the aforesaid appeal.

XVIII.

On August 27, 1951, the United States Attorney for the Southern District of California, counsel for the respondent, and counsel for the petitioner stipulated in writing to dismiss the aforesaid appeal and said stipulation was filed with the clerk of the United States Court of Appeals for the Ninth Circuit in accordance with Rule 16 of the said Court.



1 XIX.

2 Thereafter, and on August 29, 1951, the petitioner together  
3 with the other defendants were brought before the said James M.  
4 Carter who formally disqualified himself, and thereupon the pro-  
5 ceedings were assigned by the presiding Judge of the said District  
6 Court to the aforesaid Judge William C. Mathes.

7 XX.

8 On August 29 and 30, 1951, argument on motions to fix or re-  
9 duce bail were made before the said Judge William C. Mathes and  
10 the said Judge on August 30, 1951 fixed bail for petitioner in the  
11 sum of \$50,000. At the same time, the said Judge set September 18  
12 1951 as the time for filing motions and September 26 as the time  
13 for argument of said motions; and fixed September 10, 1951 as the  
14 day for the appearance of counsel to determine the date of trial  
15 which the said Judge indicated would be October 30, 1951 unless  
16 strong reason was shown to the contrary.

17 XXI.

18 Your petitioner is wholly unable to furnish bail in the sum  
19 of \$50,000 and by virtue thereof all the proceedings heretofore  
20 had herein which have confined your petitioner in the County Jail  
21 and unlawfully deprived petitioner of liberty and abridged the  
22 rights guaranteed petitioner by the Fifth and Eighth Amendments to  
23 the Constitution of the United States. Exhibits A and B annexed  
24 hereto and made a part hereof clearly reveal that petitioner has  
25 been denied equal justice by the action of the Court in fixing bail  
26 at the grossly excessive sum of \$50,000.

27 XXII.

28 Petitioner is advised by Counsel that under the Constitution,  
29 petitioner is entitled to bail as a matter of right and that the  
30 requirement of excessive bail is a denial of bail. Your petition-  
31 er is entitled to freely prepare a defense, to consult with  
32 counsel and witnesses, and all of this is denied by the unlawful  
confinement herein.

XXIII.

Petitioner was born in St. Louis, Missouri on August 12, 1912. Except for the time that he was in service overseas as hereinafter set forth, petitioner has been continuously a resident of the United States since the time of his birth.

XXIV.

Petitioner owns his own home, located at 4416 Comly Street, Los Angeles 63, in joint custody with his wife. He has no interest in any other real property.

XXV.

Petitioner has lived in Los Angeles continuously since 1936, except for a period of two years, from 1944 to 1946, during which period he was a member of the Armed Forces of the United States, to-wit, the Army, and during which period he served overseas in Okinawa. At the end of said period petitioner was honorably discharged as a corporal. During his service petitioner served as a chaplain's assistant.

XXVI.

During his residence in Los Angeles, petitioner has worked at the Vernon Canning Company, which was engaged in work for the defense effort, during which employment he was a member of the Teamsters Union, Local 585, AFL, from which union petitioner now holds a withdrawal card; petitioner has been self-employed as a salvage salesman of railroad material and has been a clerk and driver for a grocery store.

XXVII.

Prior to coming to Los Angeles in 1936 petitioner worked as a newsboy in St. Louis, Missouri for six years, to-wit, the period from 1930 to 1936.

XXVIII.

Petitioner is a graduate of Central High School, St. Louis, Missouri, and lived in St. Louis from the time of his birth until

1 he left for California in 1936.

2 XXIX.

3 In 1938 petitioner was married to Bessie Grossman in Los  
4 Angeles, to whom he is still married. There are four children  
5 issue of said marriage, Judith, age four; Susan and Myra, twins,  
6 age 9, and Barbara, age eleven, all of whom are living with peti-  
7 tioner and his wife and are solely dependent upon petitioner for  
8 support.

9 XXX.

10 Petitioner has lived on the east side of Los Angeles for  
11 approximately fifteen years, to-wit, the entire period of his res-  
12 idence in Los Angeles, California. Petitioner has run for public  
13 office four times, to-wit, Assemblyman, 1939; Member of Board of  
14 Education, 1949 and 1951; and County Assessor, 1950; he is still  
15 an active member of PTA in the City Terrace area of Los Angeles,  
16 and during the entire period of his residence in Los Angeles peti-  
17 tioner has been active in many community activities involving  
18 support of an opposition to legislation and other matters of public  
19 interest; during the second World War petitioner was a leader in  
20 his community in the sale of War Bonds and other war activities;  
21 he has donated blood seven times before going into the Armed  
22 Services in 1944.

23 XXXI.

24 Petitioner has one sister, living in the Boyle Heights area  
25 of Los Angeles, California, and his mother, Mrs. Esther Steinberg,  
26 aged sixty-five, is also living in Los Angeles, California.  
27 Petitioner's mother has high blood pressure by reason of which she  
28 has had to stop work; petitioner and his mother are very close and  
29 his imprisonment and inability to see his mother would certainly  
30 adversely affect her health.

31 XXXII.

32 Petitioner is presently earning the sum of \$58.50 per week,



1 upon which sum his wife and children are entirely dependent for  
2 support. Aside from his home, which petitioner owns as afore-  
3 said and an automobile, he has no property, funds or assets of  
4 any kind whatsoever.

5 XXXIII.

6 On Wednesday, July 25, 1951, petitioner was openly trailed  
7 all day by three carloads of FBI men. During that day he drove  
8 with his wife and children to a fiesta, and during that trip he  
9 called his wife's attention to the fact that they were obviously  
10 being trailed. Following the fiesta petitioner was trailed to the  
11 Belvedere Playground, to an ice cream parlor, to his mother's  
12 home, and finally to his own home at 11 P. M. Petitioner went to  
13 bed and woke up at 8 A.M. the next day. For a long period of  
14 time there have been public announcements of contemplated prose-  
15 cution against persons alleged to be officials of the Communist  
16 Party; during this period of time petitioner has been frequently  
17 and publicly alleged by various government officials, including  
18 representatives of the United States Attorney's office, to be a  
19 leading official of the Communist Party of Los Angeles County;  
20 for a long period of time he has had reason to believe, and has  
21 believed, that he would probably be prosecuted for violation of  
22 Section 2 of the Smith Act in accordance with the threats publicl  
23 made, which threats are referred to above; knowing full well of  
24 the oncoming prosecutions, he has never intended to, and never  
25 has, made any attempt to leave the area, to avoid detection or to  
26 avoid arrest; at all times petitioner has intended to be present  
27 and defend himself in a trial in the event of any such prosecutio  
28 all as more fully set forth below.

29 XXXIV.

30 In 1948 petitioner was charged with criminal and civil  
31 contempt of court in the within Court and was convicted on that  
32 charge. Both before trial and after trial pending appeal he was



1 released on bail in the sum of \$500. On his trial petitioner was  
2 sentenced to imprisonment for a period of one year, and it was  
3 pending appeal on this judgment that he was released on bail in  
4 the aforesaid sum. At all times during the said proceedings while  
5 petitioner was on bail, which to his recollection was for a period  
6 of more than one year, he always responded to the orders of the  
7 Court requiring him to appear. On appeal his conviction was re-  
8 versed and bail was exonerated.

9 XXXV.

10 A County ordinance directed at members of the Communist  
11 Party, requiring registration, was submitted to the County Council.  
12 Petitioner appeared before the Board of Supervisors of the County  
13 in opposition to said legislation, and it was reported in the  
14 press that he had appeared before the Board of Supervisors and had  
15 spoken in opposition to the legislation as the Legislative Director  
16 of the Communist Party; the aforesaid legislation was adopted, and  
17 although he had every reason to believe that he would be among the  
18 first to be arrested for alleged violation of that ordinance,  
19 petitioner neither left the area nor attempted to do anything to  
20 avoid arrest. Petitioner was arrested for violation of that or-  
21 dinance and was released on \$500 bail. Upon a motion to dismiss  
22 the complaint the ordinance was held unconstitutional, the case  
23 was dismissed and his bail was exonerated. During the period,  
24 which petitioner recalls to be several months and while he was out  
25 on bail, he responded to all orders of the Court requiring him to  
26 appear in the aforesaid proceedings.

27 XXXVI.

28 Petitioner hereby states and represents to this Court that  
29 he intends in good faith to remain and that he will remain within  
30 the jurisdiction of this Court at all times throughout the prose-  
31 cution of the proceedings under the indictment and that he does  
32 not intend to and will not at any time during such proceedings

1 leave the jurisdiction of this Court without the approval of the  
2 Court. Petitioner believes that he is not guilty of the offense  
3 charged in the indictment and he intends to vigorously prosecute  
4 his defense. Petitioner believes that upon the trial of this  
5 indictment herein, he will be entitled to a verdict of not guilty  
6 and that a conviction upon the allegations thereof would deprive  
7 him of liberties secured to him by the Constitution of the  
8 United States.

1 XXXVII.

2 In order to properly prepare petitioner's defense with the  
3 aid of counsel, it is vital that petitioner be released on reason-  
4 able bail. An order was entered by the aforesaid Judge William C.  
5 Mathes on August 31, 1951 directing the conditions under which  
6 petitioner and the co-defendants could prepare for trial. A copy  
7 of the aforesaid Order is annexed hereto and marked Exhibit "C."  
8 The provisions made in the said Order for the conditions under  
9 which the petitioner and the co-defendants may prepare for trial  
10 remain inadequate, and under the circumstances hereinafter set  
11 forth will place onerous burdens upon the petitioner in the prep-  
12 aration of the defense to the charges contained in the indictment.  
13 The petitioner avers that unless petitioner is released on reason-  
14 able bail, petitioner will be deprived of a fair trial without due  
15 process of law.

16 XXXVIII.

17 Under the aforesaid Order the petitioner is permitted to work  
18 with counsel on the preparation of the case on Mondays through  
19 Fridays only between the hours of 9 A.M. and 5 P.M. These limita-  
20 tions upon the hours of work disregard the scope and nature of the  
21 preparation which must be made in the case herein and which, if a  
22 proper defense is to be made, requires fulltime preparation, es-  
23 pecially in the evenings and on weekends. In addition, the peti-  
24 tioner must prepare, under the said Order, with co-defendants and  
25 counsel in a room in the Federal Building or at such place as the  
26 respondent shall select; while working in said designated room,  
27 petitioner is required to bring in meals at petitioner's own ex-  
28 pense; bring in books, documents and other materials without cen-  
29 sorship as to content only; and allowed to consult with witnesses  
30 provided that each witness shall furnish to respondent his name,  
31 address, crime record, if any, and general occupation.



1  
2 For the purpose of adequately preparing for their defense  
3 herein it will be necessary for the defendants including petition-  
4 er to examine and study each of the exhibits offered by the Gov-  
5 ernment in the case of United States v. Dennis and each of the ex-  
6 hibits offered by the defendants in said case, for the reason that  
7 the indictment herein charges that each of the defendants herein  
8 are parties to the same alleged conspiracy which was the basis of  
9 the charge against the defendants in the said case of United States  
10 v. Dennis.

11  
12 In the said case of United States v. Dennis the Government  
13 offered at the trial 234 exhibits of which number approximately  
14 200 were admitted in evidence. The said exhibits included por-  
15 tions of books such as the "English Version, Seventh World Cong-  
16 ress; Communist International, Volume 15" with more than 850 pages  
17 excerpts from numerous editions of the Daily Worker and excerpts  
18 from numerous other pamphlets and documents published over a per-  
19 iod of many years. For example, the first twenty Government ex-  
20 hibits out of the total of 234 offered were:

21 1. Photostatic copy of an article from "Daily Worker" of  
22 October 2, 1935.

23 2. Pages 861 and 862 of book entitled "English Version,  
24 Seventh World Congress. Communist International 8/8/35"--  
25 Vol. 15.

26 3. Excerpts from booklet entitled "Program of the Commun-  
27 ist International." (These excerpts ran from page 14473 to  
28 page 14520 in the Joint Appendix of the said case of United  
29 States v. Dennis.)

30 4. Excerpts from Manual entitled "Manual of Organization"  
31 by J. Peters. (These excerpts ran from page 14521 to 14536  
32 in the said Joint Appendix.)



1 5. Excerpts from Manual entitled "Why Communism?" by M.  
2 J. Olgin. (These excerpts ran from page 14537 to 14555 in  
3 the said Joint Appendix.)

4 6. Book entitled "Foundations of Leninism," by Joseph  
5 Stalin. (The entire book consisting of 123 printed pages  
6 was admitted in evidence.)

7 7. Article "Strengthen National Unity," by Earl Browder,  
8 from "The Worker," dated 1/16/44, Mag. Sec., pages 7-12.

9 8. Booklet entitled "The Communist," dated Feb., 1944.

10 8-A. Pages 107 and 108 of booklet entitled "The Commu-  
11 nist" of Feb., 1944.

12 9. Pamphlet entitled "The Path to Peace, Progress and  
13 Prosperity" - May 20-22, 1944.

14 10. Page 10 of New York Times - 5/7/45.

15 11. Page 1 of New York World Telegram - 5/22/45.

16 12. Photostat of "Daily Worker" of 5/24/45.

17 12-A. Article, "On the Dissolution of the Communist Party  
18 of the United States of America," by Jacques Duclos, from  
19 pages 7, 8 and 9 of "Daily Worker" of 5/24/45. (This art-  
20 icle ran from page 14557 to 14580 in the said Joint Appen-  
21 dix.)

22 13. Photostat of "Daily Worker" of June 4, 1945.

23 13-A. Article "The Present Situation and Next Tasks"  
24 Resolution of National Board Communist Political Associa-  
25 tion adopted June 2, 1945, from pages 4 and 5 of "Daily  
26 Worker" of June 4, 1945. (This article ran from page  
27 14581 to page 14594 in the said Joint Appendix.)

28 14. Photostat of "Daily Worker" of June 10, 1945.

29 14-A. Article "On Revisionism in the C.P.A." from pages  
30 7 and 8 of "Daily Worker" of June 10, 1945. (This article  
31 ran from page 14594 to 14601 in the said Joint Appendix.)

32 15. Photostat of "Daily Worker" of June 16, 1945.

1 15-A. Article "Thompson Discusses Browder's Program" by  
2 Bob Thompson, page 7 of "Daily Worker" of June 16, 1945.

3 16. A letter.

4 17. Booklet entitled "Political Affairs," dated July, 1945,  
5 and excerpts from said booklet as indicated. (These ex-  
6 cerpts ran from page 14608 to page 14652 in the said Joint  
7 Appendix.)

8 18. Photostat of "Daily Worker" of June 22, 1945.

9 18-A. Article "CPA National Committee backs Resolution,  
10 Calls Convention," page 2 of "Daily Worker" of June 22,  
11 1945.

12 19. Photostat of "Daily Worker" of 6/23/45.

13 19-A. Article "Call CPA Convention July 26" from page 3  
14 of "Daily Worker" of 6/23/45.

15 20. Photostat of "The Worker" of 6/24/45.

16 20-A. Article "Says Leadership Can't Shirk Responsibili-  
17 ties for Errors," by John Williamson, from page 8 of "The  
18 Worker" of 6/24/45.

19 The defense in that case offered 346 exhibits of which 93  
20 were admitted in evidence. The said exhibits were similar in  
21 source and length to those offered by the prosecution.

22 XLI

23 In order to adequately prepare for the defense it will be  
24 necessary for the defendants including petitioner to examine each  
25 of the aforesaid exhibits in their entirety in order to ascertain  
26 whether portions of the exhibits not offered or received in evi-  
27 dence may be used to rebut the inferences which the Government  
28 will ask the jury to draw from the portions of the exhibits which  
29 it offers. In addition, it will be necessary for the defendants  
30 to examine numerous other books, pamphlets and newspapers in order  
31 to determine what related material is available to them for the  
32 purposes mentioned above.

1 XLII

2 Many of the books, documents and pamphlets are, so far as de-  
3 fendants know, not readily available at any one place and it will  
4 be necessary for defendants to examine the bibliographies of vari-  
5 ous libraries such as the Los Angeles Public Library, the Univer-  
6 sity of California Library at Los Angeles, the Huntington Library,  
7 and others, and to visit various book stores to determine what  
8 books and pamphlets they have available, to examine their own  
9 files, records and libraries, as well as to seek to find other  
10 persons who may have some of said books, pamphlets or documents  
11 available.

12 XLIII

13 The defendants including petitioner have been advised by  
14 their counsel that it will be impossible for their counsel to un-  
15 dertake the responsibility for this work and that if preparation  
16 is to be made with respect to the various documents which may be  
17 offered on behalf of the Government and which should be offered on  
18 behalf of the defense, it will be necessary for the defendants  
19 themselves to secure such documents to become thoroughly familiar  
20 with them, to analyze them and to present their analysis to their  
21 said counsel.

22 XLIV

23 In addition to the books, records and documents offered by  
24 both sides in the case of United States v. Dennis, it will be ne-  
25 cessary for the defendants including petitioner to examine numer-  
26 ous publications, pamphlets and similar documents which were is-  
27 sued on the West Coast which it will be necessary for the defen-  
28 dants to secure from the various sources enumerated above in order  
29 to prepare to meet evidence which the Government may offer with  
30 respect to the ideas and beliefs and the speech and writings of  
31 these defendants, and in order to present their own defense with  
32 respect to such ideas, beliefs, speech and writings.



It will be absolutely impossible for the defendants to prepare their defense unless they are in a position to visit their various homes and offices, the libraries mentioned above, book stores, the homes of persons who may have material available, and other places where they may discover that some of the material needed is available.

In addition, they will require the opportunity frequently to consult privately and confidentially with their counsel, both individually and in groups. They will also require assistance from research persons, secretaries and other persons with whom they must consult frequently and regularly in order to undertake even the beginnings of the vast job of preparation which confronts them.

The tremendous task of preparation would present many problems even if the defendants were free on bail. The indictment in this case being based on the alleged ideas and beliefs allegedly held by the defendants as well as the ideas and beliefs allegedly contained in books, documents, newspapers and other writings presents a unique problem from the standpoint of preparation for trial.

There is involved in this case the fundamental principles of Marxism-Leninism, a world view of nature and society first developed by Marx and Engels over 100 years ago and having its origin in much of the prior thought of mankind especially British classical political economy, French materialism and German classical idealism, especially that of Hegel. Marxism was added to and extended and further developed over the period of a century on the basis of new conditions and new experiences throughout the world. Leninism is a further development of Marxism in the period referred to by Lenin as the epoch of imperialism.



1 XLVIII

2 As a comprehensive world view, Marxism-Leninism embraces all  
3 aspects of nature and society. It consequently deals with innum-  
4 erable teachings, doctrines, laws, concepts, theories and tenden-  
5 cies in such spheres as history, philosophy, political economy,  
6 sociology, etc.

7 XLIX

8 The principles of Marxism and Leninism, their development and  
9 their application in concrete situations, are not contained in any  
10 single text or compendia but are contained in the writings of many  
11 Marxist scholars and philosophers published over many years and in  
12 many countries. The defendants in this case must prepare to de-  
13 fend themselves against the charge that they have conspired to ad-  
14 vocate matters which may appear in any one of the thousands upon  
15 thousands of publications upon which the Government might rely.  
16 In addition, they must be prepared to present their own views in  
17 respect to these innumerable documents. Never before the Dennis  
18 case has any court of law sought to try such a body of doctrine  
19 and thinking. In this type of trial, a trial of books and ideas,  
20 only the most intensive and concentrated work will permit even the  
21 minimum amount of preparation necessary for the defendants to pre-  
22 sent a defense.

23 L

24 The indictment herein charges that as a part of the alleged  
25 conspiracy petitioner and the other persons named in the indict-  
26 ment, and divers unnamed persons, would write and cause to be  
27 written articles and directives in publications of the Communist  
28 Party of the United States of America, including but not limited  
29 to "Political Affairs," "Daily People's World," "Daily Worker" and  
30 "The Worker."

LI

32 With respect to the said Daily People's World, as alleged in

1 the petition of Philip Marshall Connelly, this newspaper was pub-  
2 lished last year Monday through Friday of each week and prior to  
3 that time and for a number of years prior to April 1, 1945, said  
4 newspaper was published Monday through Saturday of each week. In  
5 order, therefore, just to examine and analyze the issues of the  
6 said paper commencing April 1, 1945 (the date when the alleged con-  
7 spiracy herein was begun) it would be necessary to examine 1,770  
8 issues of not less than four pages and as many as eight to ten  
9 pages of conventional size or tabloid size newspaper. The other  
10 publications named in the indictment herein are, on information  
11 and belief, of considerable volume probably exceeding in size that  
12 of the Daily People's World as aforesaid.

13 LII

14 In order to properly prepare the defense herein as above out-  
15 lined, there is need for petitioner's freedom on reasonable bail  
16 so that petitioner can earn his livelihood and obtain the necessary  
17 funds required in a legal defense of the scope hereinabove stated.  
18 Petitioner cannot properly prepare a defense while petitioner and  
19 petitioner's witnesses are subject to surveillance and confinement  
20 in a room, where petitioner is unable to earn a livelihood and  
21 where the time for consultation among counsel, witnesses and peti-  
22 tioner is severely limited.

23 LIII

24 In view of the facts and circumstances hereinabove set forth,  
25 petitioner respectfully submits to the Court that petitioner is at  
26 the present time unlawfully imprisoned and restrained of petition-  
27 er's liberty; that petitioner's imprisonment and detention are il-  
28 legal, arbitrary and a denial of rights secured to petitioner by  
29 the Constitution of the United States and that bail in the sum of  
30 \$50,000 is so excessive and so unreasonable as to constitute an  
31 absolute denial of petitioner's right to bail and petitioner's  
32 right as a matter of due process of law to properly defend peti-

1 tioner against the charges which have been brought against peti-  
2 tioner.

3 LIV

4 That no previous application for a writ of habeas corpus has  
5 been made in this matter to any other court except as hereinabove  
6 alleged.

7 WHEREFORE, petitioner prays that a writ of habeas corpus may  
8 issue directed to James J. Boyle, United States Marshal, Southern  
9 District of California, Central Division, and to any other offi-  
10 cers having custody of the body of your petitioner, commanding him  
11 to have the body of your petitioner produced before this Court at  
12 a time and place to be specified, to do and receive what shall  
13 then and there be considered concerning your petitioner together  
14 with time and cause of petitioner's detention and said writ, and  
15 that this honorable Court order and direct that petitioner be re-  
16 leased from such custody forthwith upon such reasonable bail as  
17 may be determined in the premises.

18 DATED: This 4th day of September, 1951.

19  
20  
21 (verified September 4, 1951)

Wm. Henry Steinberg



EXHIBIT A

The Pending Register of Federal Criminal Actions in the Central District was examined. Approximately 186 cases were bail cases. The only cases where bail was fixed at \$10,000 or more is the annexed list. Many of these annexed indictments contained more than one count.

<u>CHARGE</u>	<u>PENALTY</u>	<u>BAIL</u>
Mail fraud and conspiracy	5 years - \$10,000 (5 counts)	\$25,000
Failure to self-deport)	10 years	25,000
Failure to self-deport)	10 years	15,000
Concealing assets in bank	5 years - \$5,000	15,000
Transmission of threatening letters	5 years - \$1,000	15,000
Transmission of threatening letters	5 years - \$1,000	10,000
Perjury	5 years - \$2,000	10,000
Evasion of Income Tax	5 years - \$10,000	10,000
Firearms in Interstate Commerce	5 years - \$2,000	10,000
Robbery of United States Mail	10 years	10,000
Conspiracy to defraud Govt.	10 years - \$10,000	10,000 re-
		duced to 5,000
Concealing assets	5 years - \$5,000	10,000

Smith Act Prosecutions in New York

(1) Dennis v. U. S. - 12 defendants

\$5,000 after indictment. After conviction -  
\$20,000 each - fixed by Circuit Court. Bail  
continued by Jackson, J., pending applications  
for writ (Williamson v. U. S., 95 L.Ed. Adv. 10)

EXHIBIT A

1 (2) U. S. v. Flynn, et al

2 Flynn, Perry, Gerson, Bachrach, Weinstock, Lannon,  
3 Jerome, Weinstone, Charney, Begun, Johnson.  
4 \$10,000 - Increase to \$50,000 sought, denied.  
5 Jones, Gannet, and Bittelman - \$20,000 - In-  
6 crease to \$75,000 sought, denied. Mindel -  
7 \$5,000 - Increase to \$50,000 sought, denied.  
8 Amter - \$1,000 - no increase sought.

9 (3) Hawaii-U.S. v. Hall, et al

10 Bail fixed by Commissioner for 7 defendants at  
11 \$75,000. Reduced by Judge Delbert E. Metzger  
12 to \$5,000. After indictment, bail fixed at  
13 \$7,500.

14 (4) Pittsburgh-West Virginia-U.S. v. Nelson, et al

15 Bail fixed by Commissioner in sum of \$100,000.  
16 Reduced by Judge William Kirkpatrick in Phila-  
17 delphia to \$20,000.

18 (5) Baltimore-U.S. v. Frankfeld

19 Bail fixed by Commissioner at \$75,000. Reduced  
20 for one defendant to \$5,000; second defendant  
21 to \$17,500; third defendant to \$10,000.

22 Terminal Island Four

23 (Carlson v. U.S.)

24 Charge - Alien Communists and advocates of force  
25 and violence. Pending deportation proceedings,  
26 bail denied by Attorney General, District Court  
27 and Circuit Court. On application for writ of  
28 certiorari, bail in sum of \$5,000 unanimously  
29 fixed by United States Supreme Court sitting  
30 as entire body.

32 EXHIBIT A

EXHIBIT B

ANALYSIS

Of the approximately 186 cases examined July 30, 1951 (total in the Pending Register), about 175 fixed bail at less than \$10,000. The following is a tabulation:

<u>Bail</u>	<u>No. of Cases</u>
\$7,500	2
5,000	20
3,500	1
3,000	6
2,500	18
2,000	14
1,500	18
1,000	47
500	22
250	1
Own Recognizance	22

The cases where the penalty was 5 years and up totalled approximately 158 in number, or about 80% of the total number of cases. The average bail in all of the cases where the penalty was 5 years and up amounts to less than \$3,000.



1 The following are the cases in the Pending Register of Criminal  
 2 Actions in Central District where the bail was below \$10,000:

3 <u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
4 Forgery	10- \$1,000	3	\$ 1,000
5 Passing altered money order	5- 5,000	2	2,000
6 Forging and uttering U. S.			
7 Treasury check	10- 1,000	2	1,000
8 Forging and uttering check	5- 1,000	2	Own Recognizance
9 Forging and uttering check	5- 1,000	2	500
10 Forging and uttering			
11 Government obligation	5- 1,000	2	1,000
12 Harboring and concealing			
13 aliens	5- 1,000	1	1,500
14 Possession and sale of			
15 narcotics	10- 5,000	2	500
16 Illegal wearing uniform,			
17 U.S. Army	6mos. 250	1	500
18 Unlawful wearing U.S.			
19 Navy Uniform	6 mos 250	3	500
20 Forging and uttering			
21 Government draft	10- 1,000	2	1,000
22 Unlawful possession of			
23 ration points	1-10,000	1	5,000
24 Forgery, personation and			
25 Conspiracy	10-10,000	4	3,000
26 Forgery, personations and			
27 Conspiracy	10-10,000	4	2,000
28 Conspiracy, possession of			
29 writings and sugar stamps	5-10,000	5	5,000
30 Conspiracy, possession of			
31 writings and sugar stamps	5-10,000	5	Own Recognizance

1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2	Buying and selling meat			
3	in excess of price			
4	control	5-\$10,000	5	\$ 5,000
5	Concealment of assets			
6	from trustee in			
7	bankruptcy	5- 5,000	3	10,000
8	Attempt to wreck a train	5- 5,000	1	5,000
9	Mailing scurrilous postal			
10	cards	5- 5,000	5	500
11	False claim of citizen-			
12	ship	5 10,000	1	2,500
13	Internal Revenue Code			
14	(Fraudulent income			
15	tax return)	5-10,000	4	
16	Failure to report for			
17	induction and to keep			
18	Board informed of			
19	address	5-10,000	2	2,500
20	Treason	death		No Bail
21	Transport stolen motor			
22	vehicle	5- 5,000	1	5,000
23	False claim of citizen-			
24	ship	5-10,000	1	500
25	Conspiracy and fraud			
26	vs. Government	5-10,000	24	10,000*
27				(on motion reduced to 5,000)
28	Mann Act	5- 5,000	1	1,000
29	Servicemen's Readjustment			
30	Act #44	1- 1,000	4	Own Recogni- zance
31	Transport stolen motor			
32	vehicle	5- 5,000	1	
	* Referred to in Exhibit A			

1. CHARGE	PENALTY	COUNTS	BAIL
2 Juvenile Delinquency			
3 Forgery U.S. Money Order)		1	
4 Mailing obscene letter	10- \$ 5,000	1	\$ 2,500
5 Engage in business of			
6 purchasing spirits for			
7 resale without basic			
8 permit		2	2,500
9 Transport stolen motor			
10 vehicle	5- 5,000	1	
11 Forging and cashing			
12 Government bonds	10- 1,000	2	2,500
13 Theft of mail	5- 2,000	1	1,000
14 Forging Government			
15 Obligation	15- 5,000	1	500
16 Bank robbery, transport-			
17 ing interstate stolen			
18 money and flight to			
19 avoid prosecution	25-10,000	3	Held No Bond
20 Forging and uttering			
21 Government check	10- 1,000	2	1,000
22 Transporting stolen motor			
23 vehicle in foreign			
24 commerce	5- 5,000	1	3,000 (reduced to 2,000)
25			
26 Anti-trust conspiracy to			
27 fix, determine, establish			
28 and maintain noncompetitive			
29 prices, etc. of fire			
30 extinguishers	1- 5,000	1	Own Recogni- zance (later 1,000)
31			
32			



1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2	Theft of Government			
3	property, forging			
4	and uttering Govern-			
5	ment checks	10- \$ 10,000	4	\$ 2,500
6	Sale and possession of			
7	narcotics	10- 5,000	2	2,500
8	Conspiracy, false state-			
9	ments to Government	5- 10,000	2	3,000
10	Purchase of narcotics,			
11	receiving and trans-			
12	porting narcotics	10- 5,000	2	2,500
13	Forging postal money			
14	order	5- 5,000	4	500
15	False statement in appli-			
16	cation for Survivors			
17	Insurance Benefits	1- 1,000	12	1,000
18	Evasion of Income Tax	5- 10,000	1	1,000
19	Migratory	6 mos 500	1	
20	Embezzlement, abstraction,			
21	misapplication funds			
22	H.O.L.C., and false			
23	entry in book	5- 10,000	24	Own Recogni-
24				zance (later
25	Evasion income taxes	5- 10,000	2	5,000)
26				1,000.
27	Evasion income taxes	5- 10,000	1	Released Own
28	Misapplication and			Recognizance
29	Embezzlement of National			on Motion
30	bank funds	5- 5,000	6	1,000
31	Evasion income taxes	5- 10,000	2	2,000
32				

1 <u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2 Evasion income taxes	5- \$10,000	2	Own Recongi- zance
3 Failure to file in- come tax return	1- 10,000	1	\$ 2,500 Released own recognizance
4			
5			
6 Forging and uttering			
7 government checks	10- 1,000	2	1,000
8 Transporting stolen			
9 car	5- 5,000	1	1,000
10 Transmission Inter-			
11 state threatening			
12 communications;			
13 mailing threatening			
14 letters	20- 5,000	4	15,000*
15 Sale of narcotics	10- 5,000	2	1,500
16 False statement in			
17 application for			
18 Federal Housing			
19 Loan		4	400
20 Conspiracy to defraud, make			
21 pass, utter and pub-			
22 lish statements re:			
23 FHA Title Loan application	5- 10,000	41	2,000
24 Conspiracy to defraud, make			
25 pass, utter pub-			
26 lish statements re:			
27 FHA Title Loan			
28 Application	5- 10,000	41	1,000
29 Perjury before ICC, making			
30 false statements on oath			
31 before examiner	5- 2,000	1	1,500
32 * Referred to in Exhibit A			

<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2 Anti-trust, fixing			
3 prices for fish	1- \$ 5,000	2	\$ 1,000
4 Perjury; false state-			
5 ments to and con-			
6 cealing facts from			
7 Department of Army	5- 2,000	6	Own Recogni-
8 Official asking and			zance
9 accepting bribe	3-	14	1,000
10 Embezzlement and theft			
11 of U.S. property			
12 False documents			
13 Filed with Department			
14 of Agriculture	5- 10,000	28	Own Recogni-
15			zance then
16 Contempt, failure to			3,5000
17 appear before Grand			
18 Jury		1	1,000
19 Forging U.S.			
20 Treasury Checks	10- 1,000	8	1,000
21 Concealment of narcotics	10- 5,000	1	2,000
22 Perjury committed before			
23 Federal Grand Jury	5- 2,000	1	5,000
24 Mail fraud and Conspiracy	5- 10,000	5	25,000*
25 Mail fraud and Conspiracy	5- 10,000	5	500
26			(vacated and
27			released on
28 Accessory to bank robbery			own recogni-
29 and receiving proceeds			zance)
30 thereof	12- 5,000	2	5,000
31 *Referred to in Exhibit A			
32			



<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
1 Conspiracy to commit			
2 offenses in vio-			
3 lation of Title			
4 47, Sec. 603;			
5 (Unauthorized			
6 publication or use			
7 of communications)	5-\$10,000	1	\$ 7,500
8 Conspiracy to commit			
9 offenses in vio-			
10 lation of Title 47;			
11 Sec. 605; (Unauth-			
12 orized publication			
13 or use of communi-			
14 cations)	5- 10,000	1	1,000
15 Evasion of income tax	5- 10,000	3	1,500
16 Evasion of income tax	5- 10,000	2	1,500
17 Transport interstate			
18 of stolen auto	5- 5,000	1	3,000
19 Evasion of income tax	5- 10,000	1	1,000
20 Transport forged			
21 security			
22 interstate	10- 10,000	1	2,000
23 Mailing obscene			
24 matter	10- 5,000	13	2,000
25 Illegal impor-			
26 tation and			
27 concealment of			
28 narcotics	10- 5,000	2	2,500
29 Embezzlement and			
30 theft of U.S property	10- 10,000	20	Own Recogni-
31 zance			
32			

<u>1 CHARGE</u>	<u>PENALTY</u>	<u>COUNT</u>	<u>BAIL</u>
2 Concealing assets and con-			
3 cealing records in con-			
4 tempt of Bankruptcy;			
5 Conspiracy; mail fraud	5- \$ 10,000	6	\$ 5,000
6 Misbranded device and drug			
7 in interstate commerce	1- 1,000	1	own recogni-
8 False claim of citizenship	5- 10,000	2	zance
9 Evasion income tax	5- 10,000	2	7,500
10 Transport stolen motor vehicle	5- 5,000	1	1,500
11 Ship misbranded drug in			
12 interstate commerce	1- 1,000	2	3,000
13 Mail fraud	5- 1,000	17	Own recogni-
14 Robbery from mails	5- 10,000	1	zance
15 Evasion income tax	5- 10,000.	4	2,500
16 Evasion income tax	5 10,000	2	10,000*
17 Evasion income tax	5- 10,000	2	1,500
18 Evasion income tax	5- 10,000	4	1,500
19 Evasion income tax	5- 10,000	4	1,500
20 Evasion income tax	5- 10,000	4	1,500
21 Conspiracy to commit offens-			
22 es against U.S.; conspiracy			
23 to cause to be made false			
24 papers re: Veterans Eligi-			
25 bility for Home Loans under			
26 Servicemen's Readj. Act, 1944	5- 10,000	9	1,000
27 Evasion income tax	5- 10,000	4	1,500
28 Failure to register firearm;			
29 Interstate transport. unreg-			
30 istered Firearm	5- 2,000	2	10,000*
31 Interstate transport motor			
32 vehicle stolen	5- 5,000	1	2,000

\*Referred to in Exhibit A

<u>1</u> CHARGE	<u>PENALTY</u>	<u>COUNTS</u>	<u>BALE</u>
2 Illegal sale of			
3 narcotics	5 - \$2,000	3	\$2,500
4 IRC - evasion of			
5 income tax;			
6 Making false statements			
7 (Mickey Cohen case)	5 - 10,000	5	10,000* (reduced to 5,000)
8			
9 IRC - evasion of			
10 income tax;			
11 Making false			
12 statements (Mickey			
13 Cohen case - wife)	5 - 10,000	1	2,500
14 Theft of mail,			
15 obstruction of			
16 correspondence	5 - 2,000	1	1,000
17 Transport stolen car	5 - 5,000	1	1,000
18 Theft of mail by			
19 postal employee	5 - 2,000	1	1,000
20 Failure to report for			
21 induction	5 - 10,000	1	5,000
22 Perjury committed before			
23 Grand Jury	5 - 2,000	2	10,000*
24 Obstruction of			
25 correspondence	5 - 500	1	2,000
26 Transport stolen auto	5 - 5,000	1	5,000
27 Failure to report for			
28 induction	5 - 10,000	1	2,500
29 Failure to file			
30 Questionnaire	5 - 1,000	2	2,500
31 * Referred to in	-		
32 Exhibit A			

EXHIBIT "B"



1. CHARGE	2. PENALTY	3. COUNTS	4. BAIL
2 Soliciting and attempt-			
3 ing to sell auto in			
4 excess of maximum			
5 ceiling price		4	500
6 Concealment of assets			
7 and records in bank-			
8 ruptcy; conspiracy,			
9 mail fraud	5 - 10,000	3	Own Recognizance
10 Failed and refused to			
11 be inducted	5 - 10,000	1	2,500
12 Illegal possession of			
13 Marijuana	5 - 2,000	1	1,500
14 Conspiracy to corruptly			
15 endeavor to influence			
16 a witness and solici-			
17 tation of a bribe by			
18 such witness	5 - 10,000	1	Own Recognizance
19 Failure to register			
20 firearm	5 - 2,000	1	1,000
21 Failure to register			
22 firearm	5 - 2,000	1	1,000
23 Servicemen's Readj.			
24 Act 1944	1 - 1,000	3	500
25 Transport Stolen Auto.	5 - 5,000	1	1,000
26 Failure to report for			
27 induction	5 - 10,000	1	5,000 (reduced to 1,000)
28			
29 Theft of mail by			
30 postal employee	5 - 2,000	4	1,000
31 Theft of mail by			
32 postal employee	5 - 2,000	3	1,500

EXHIBIT "E"

1. CHARGE	PENALTY	COUNTS	BAIL
2 Transport stolen car	5 - 5,000	1	\$2,000
3 Transport stolen car	5 - 5,000	1	5,000
4 Transport stolen car	5 - 5,000	1	1,000
5 Breaking into building			
6 used in part as			
7 Post Office	5 - 1,000	1	5,000
8 Mail fraud	5 - 1,000	11	5,000
9 Conspiracy; embezzle-			
10 ment funds National			
11 Bank	5 - 10,000	4	1,000
12 Theft from interstate			
13 shipment and re-			
14 ceiving stolen goods	10 - 5,000	12	5,000
15 Forging of postal			
16 saving certificates			
17 and uttering same	5 - 5,000	8	500
18 Failure to report for			
19 induction	5 - 10,000	1	4,500
20 Failure to report for			
21 induction	5 - 10,000	1	1,000
22 Theft of mail	5 - 2,000	1	1,000
23 Mail threatening			
24 letter	20 - 5,000	1	10,000*
25 Illegal possession of			
26 Marijuana	5 - 2,000	1	1,000
27 Fair Labor Standards Act	6 mos-10,000	14	Own Recognizance
28 Fair Labor Standards Act	6 mos-10,000	13	Own Recognizance
29 Fair Labor Standards Act	6 mos-10,000	10	Own Recognizance
30 Federal Food, Drug and			
31 Cosmetics Act (Adul-			
32 terated food in Int.Com.)	1 - 1,000	18	Own Recognizance

\* Referred to  
in Exhibit A

EXHIBIT "B"

1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2	Federal Food, Drug and			
3	Cosmetics Act (Adul-			
4	terated food in in-			
5	terstate commerce)	1 - 1,000	4	Own Recognizance
6	Forging Government Check	10 - 1,000	2	5,000
7	Obstruction of mail	5 - 2,000	2	5,000
8	Theft from interstate			
9	shipment	10 - 5,000	3	1,000
10	Theft on Government			
11	Reservation	5 - 5,000	2	500
12	Illegal wearing			
13	uniforms	6 - 250	1	1,000
14	Infringement of copy-			
15	righted movies	1 - 1,000	4	Own Recognizance
16	False claim for unem-			
17	ployment insurance			
18	benefits from R.R.			
19	retirement board	1 - 10,000	4	Own Recognizance
20	Transport stolen fire-			
21	arm	5 - 2,000	1	2,000
22	Failure to be inducted	5 - 10,000	1	1,000
23	Failure to be inducted	5 - 10,000	1	3,000
24	Forging and uttering			
25	Government check	10 - 1,000	2	1,000
26	Theft of mail	5 - 2,000	3	1,000
27	Theft of mail by			
28	postal employee	5 - 2,000	2	500
29	Theft of mail by			
30	postal employee	5 - 2,000	2	500
31	Theft of mail by			
32	postal employee	5 - 2,000	2	1,000

EXHIBIT "B"



1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2.	Failure to be inducted	5 - \$10,000	1	\$1,000
3	Embezzlement of funds			
4	National Bank	5 - 5,000	4	1,000
5	Forging and uttering			
6	forged Postal			
7	Money Order	5 - 5,000	2	250
8	Forging Government Check	10 - 1,000	3	1,500
9	Failure to register			
10	firearm	5 - 2,000	1	1,000
11	Causing false claim to			
12	be made to Veterans'			
13	Administration re:			
14	Appraisal	1 - 1,000	1	Own recognizance
15	False claim for unemploy-			
16	ment insurance benefits			
17	R.R. retirement board	1 - 10,000	2	Own recognizance then 500
18				
19	False claim for unemploy-			
20	ment insurance R.R. retire-			
21	ment board	1 - 10,000	4	Own Recognizance then 500
22				
23	Juvenile delinquency			
24	transfer of marijuana		1	500
25	Illegal sale of marijuana	5 - 2,000	2	2,500
26	Forging and uttering			
27	Government check	10 - 1,000	2	1,000
28	Embezzlement of funds			
29	of National Bank	5 - 500	4	Own recognizance
30				
31				
32				

CHARGE	PENALTY	COUNTS	BAIL
Interstate transport			
falsely made			
security	10 - \$10,000	1	2,500
False claim unemploy-			
ment insurance bene-			
fits R.R. retirement			
board	1 - 10,000	4	Own Recognizance then 500
Impersonation, as			
Federal Officer	3 - 1,000	4	5,000
Theft of mail by			
postal employee	5 - 2,000	2	500
Illegal wearing Marine			
Corps uniform	6 mos.-500	1	500
False claim of citi-			
zenship	3 - 1,000	1	1,000
Theft of mail by			
Postal employee	5 - 2,000	2	500
Illegal sale and			
Possession of			
Marijuana	5 - 2,000	2	2,000
Theft of mail by			
Postal employee	5 - 2,000	2	3,000
Theft of Government			
property	10 - 10,000	4	1,000
Illegal possession			
of Marijuana	5 - 2,000	1	1,000
Conspiracy to de-			
fraud and commit			
offense - kick -			
backs on sub-			
contracts	2 - 10,000	9	2,500

EXHIBIT "B"

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

UNITED STATES OF AMERICA,

No. 21883-Crim.

Plaintiff,

vs.

O R D E R

WILLIAM SCHNEIDERMAN, et al.,

Defendants.

Pursuant to stipulation of the parties hereto, the

United States Marshal IS HEREBY ORDERED AND DIRECTED to take the steps necessary to permit each and all of the defendants in the above-entitled matter to have the following conditions for preparation for trial:

1. Upon one days notice, or upon being furnished a schedule in advance, the said defendants shall be permitted to work with their attorneys on the preparation of their case at any and all times between the hours of 9:00 a.m. to 5:00 p.m., Mondays through Fridays, inclusive, in Room 243B of the Federal Building in the city of Los Angeles, or at such place as the United States Marshall shall select. An attorney for said defendants need not be present at all times during the time that the defendants are so working on the preparation of their case for trial.

2. During the time that the defendants are so working



1 they may have brought to them their meals at their own expense.

2 3. The defendants shall be allowed to bring into said  
3 room and to maintain there such books, documents, pamphlets,  
4 and similar written or printed material as they shall desire,  
5 without censorship of any kind as to content, and the defendants  
6 shall be permitted to make and keep in said room and to deliver  
7 to their attorneys such notes, memoranda and documents as they  
8 desire, without censorship of any kind as to content. In  
9 addition, the defendants shall be permitted to bring to said  
10 room and keep there such office equipment as typewriters, and  
11 such office supplies as paper, carbon paper, pencils, pens, ink,  
12 etc.; provided, however, that none of the foregoing is intended  
13 to deprive the United States Marshal of the right to see to it  
14 that nothing other than materials of the kind permitted by this  
15 order are brought in.

16 4. For the purpose of dealing with problems relating  
17 to their defense, the defendants shall be allowed, in the  
18 presence of an attorney, to visit and confer with such persons  
19 as the attorney shall designate; provided, however, that such  
20 person shall furnish to the United States Marshal his name,  
21 address, criminal record if any, and general occupation.

22

23 DATED this 31st day of August, 1951.

24

25

26

27

United States District Judge

28

29 PRESENTED BY:

30

31

WALTER S. BINNS  
Chief Assistant U. S. Attorney

32

1 MARGOLIS and McTERNAN  
2 112 West Ninth Street  
3 Los Angeles 15, California  
4 VAndike 7153

5 and  
6 LEO A. SULLIVAN  
7 1440 Broadway Street  
8 Oakland, California  
9 Hightower 4-1707

10 Attorneys for Petitioner

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 CENTRAL DIVISION

14 HENRY STEINBERG,

15 Petitioner,

16 vs.

17 JAMES J. BOYLE, United States Marshal,  
18 Respondent.

No. 13443-PH

ORDER TO SHOW CAUSE WHY  
WRIT OF HABEAS CORPUS  
SHOULD NOT ISSUE

19 Upon reading the verified petition of the petitioner on  
20 file herein,

21 IT IS HEREBY ORDERED that James J. Boyle, United States Marsh  
22 for the Southern District of California appear before the above  
23 entitled Court in the courtroom of the Honorable  
24 at the United States Post Office and Court House Building, 312 North  
25 Spring Street, Los Angeles, California, on the 6th Day of September  
26 1951, at 2 P.M. of said day, then and there to show cause if any he  
27 may have why he should not release from his custody or the custody  
28 such officers or agents as may have the same for and on his behalf,  
29 the body of HENRY STEINBERG, petitioner herein, upon  
30 such reasonable bail as may be determined by this Court.

31 Good cause being shown therefor, it is hereby ordered that  
32 this Order and the said petition may be served upon the respondent  
herein on or before September 4, 1951 at 2 P.M. of said day.

DATED: This 4th day of September, 1951.

/s/ Ben Harrison

JUDGE OF THE U.S. DISTRICT COURT

1 ERNEST A. TOLIN  
United States Attorney  
2 RAY H. KINNISON  
Assistant U. S. Attorney  
3 Chief of Criminal Division  
4 600 Federal Building  
Los Angeles 12, California  
5 Telephone: MADison 7411

6 Attorneys for Respondent

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
10 CENTRAL DIVISION

11 ~~ERNEST A. TOLIN~~

12 Petitioner,

13 vs.

14 JAMES J. BOYLE, United  
States Marshal,

15 Respondent.  
16

NO. 1343-41

RETURN TO WRIT OF HABEAS CORPUS

17 I, JAMES J. BOYLE, United States Marshal for the Southern District of  
18 California, respondent herein, on behalf of myself and each and all of my agent  
19 and deputies, respectfully make the following return and answer to this Honorable  
20 Court, to the writ of habeas corpus issued pursuant to the petition for writ of  
21 habeas corpus in the above case:

22 I

23 That the petitioner, Henry Steinberg, is not unlawfully  
24 imprisoned or restrained of his liberty, and his imprisonment and detention  
25 are not illegal, arbitrary or a denial of rights secured to him by the Constitu-  
26 tion of the United States, but said petitioner is in my custody under proper and  
27 lawful authority.

28 II

29 That said petitioner was taken into custody on July 26, 1951, in the  
30 City of Los Angeles, State of California, by Special Agents of the Federal  
31 Bureau of Investigation, upon a warrant issued on July 25, 1951, by Howard V.  
32 Calverley, United States Commissioner for the Southern District of California,



1 pursuant to a verified complaint charging said petitioner and one William  
2 Schneiderman with conspiracy to commit offenses against the United States pro-  
3 hibited by Section 2 of the Smith Act, 54 Stat. 671, 18 U.S.C. (1946 Ed.) 10,  
4 and 18 U.S.C. (1948 Ed.) 2385.

5 III

6 That following said petitioner's arrest was taken without delay on July  
7 26, 1951, before the nearest United States Commissioner, namely, Honorable  
8 Howard V. Calverley, at Los Angeles, California, who then and there arraigned  
9 said petitioner and continued the matter to August 9, 1951 at 10:00 a.m. for  
10 preliminary examination and set bail in the amount of \$75,000 pending said pre-  
11 liminary examination, and in default thereof ordered said petitioner committed  
12 to the custody of this respondent.

13 IV

14 The grand jury for the Southern District of California, in and for the  
15 Central Division, met on the 27th, 30th, and 31st days of July, 1951, and, after  
16 hearing the evidence presented, did on the 31st day of July, 1951, return an in-  
17 dictment against the petitioner herein and eleven other named defendants, a cer-  
18 tified copy of which is attached hereto as Exhibit "A". That said grand jury re-  
19 commended bail in the amount of \$75,000 for the petitioner herein and, on the  
20 return of the indictment, said amount of bail was approved by Judge James M.  
21 Carter, before whom the said indictment was returned.

22 V

23 On the 2nd day of August, 1951, the petitioner herein was arraigned on  
24 said indictment and, at the request of petitioner herein, the plea on said  
25 indictment was continued until the 13th day of August, 1951. On the 13th day  
26 of August, 1951, at the petitioner's request, the plea on said indictment was  
27 again continued until the 20th day of August, 1951. On the 16th day of August,  
28 1951, on petitioner's request, the order setting said matter for plea on  
29 August 20, 1951, was vacated and the plea on said indictment was again con-  
30 tinued until the 22nd day of August, 1951. On August 22, 1951, the plea was  
31 continued at petitioner's request to August 29, 1951, and on August 29, 1951,  
32 the petitioner herein entered a plea of not guilty before the Honorable Wm. C.  
33 Mathes, to whose court the cause was transferred for all further proceedings.

VI

Following the proceedings set forth in paragraphs ~~VIII~~ to ~~XIII~~ of the petition herein and after the opinion by the United States Court of Appeals for the Ninth Circuit in the case of Philip Marshall Connelly, petitioner, v. The United States District Court in and for the Southern District of California, Central Division, and Honorable James M. Carter, Judge thereof, respondents (No. 13053, decided August 24, 1951), was rendered, Judge James M. Carter did, on the 29th day of August, 1951, disqualify himself as to both Philip Marshall Connelly and the petitioner herein, and transferred all proceedings in said case of United States v. Schneiderman, et al., to Judge Paul J. McCormick, Presiding Judge of the United States District Court for the Southern District of California. Judge Paul J. McCormick on the same date assigned said case to Judge Wm. C. Mathes for all further proceedings. Thereafter, on the 29th day of August, 1951, a motion was made before the Honorable Wm. C. Mathes to reduce the bail of the petitioner herein, and following a full hearing lasting two days an order was made on August 30, 1951, reducing the amount of bail set on said indictment to the sum of \$50,000. That petitioner has not given such bail and is detained by respondent pursuant to the proceedings aforesaid; that in said hearings before Judges Wm. C. Mathes and ~~Louis E. Goodman~~ the same matters were raised as are raised in the said petition, and said matters have already been litigated.

VII

That the order of said Judge William C. Mathes fixing bail in the amount of \$50,000 does not, under the circumstances herein involved, constitute an excessive requirement of bail in accordance with the Eighth Amendment of the Constitution of the United States, and does not amount to a violation of said Amendment or the Fifth Amendment thereto, and does not show any abuse of discretion by said Judge William C. Mathes.

VIII

That named in the indictment above-mentioned, as unindicted co-conspirators with the petitioner herein, are: Robert G. Thompson, Henry Winston, Gilbert Green, and Gus Hall. That the said last-named individuals were defendants

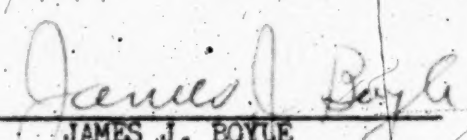


1 in the case of United States v. Dennis, et al., who were convicted in the  
2 Southern District of New York on a violation of the same Act under which the  
3 above-mentioned indictment was returned, and which conviction was, on June 4,  
4 1951, affirmed by the Supreme Court of the United States. That, thereafter,  
5 said last-named persons failed to appear and surrender to serve the sentence  
6 theretofore imposed and on July 2, 1951, bench warrants were ordered issued by  
7 the United States District Court for the Southern District of New York for said  
8 persons, and on July 3, 1951, the bonds theretofore posted (referred to in the  
9 petition herein) by said persons were ordered forfeited by that court. (The  
10 nature of the offense charged in the indictment herein is the incitement of  
11 rebellion looking to the overthrow of the government of the United States by  
12 force and violence and disloyalty to the United States. Under the facts and  
13 circumstances here involved the defendants in said indictment, including the  
14 petitioner herein, lack the usual incentive of respect to said government.  
15 Your respondent alleges that the petitioner herein is a poor security risk  
16 and that unless a substantial bail is required of said petitioner, said  
17 petitioner would not appear to answer the charges contained in the indictment  
18 herein.)

19 IX

20 That in none of the cases mentioned in EXHIBITS "A" and "B" of the peti-  
21 tion herein, save and except the two New York cases of United States v. Dennis  
22 and United States v. Flynn, is the charge the same as is contained in the indict-  
23 ment herein, all of said cases being routine cases involving violations of  
24 various federal statutes.

25 WHEREFORE, the respondent, James J. Boyle, United States Marshal for the  
26 Southern District of California, having made due and full answer to the writ of  
27 habeas corpus heretofore issued herein, pursuant to the petition for writ of  
28 habeas corpus, respectfully prays that the petition for writ of habeas corpus  
29 be dismissed and that the petitioner, Henry Steinberg, be remanded to re-  
30 spondent's custody to be dealt with according to the laws of the United States  
31 of America.

32  
  
JAMES J. BOYLE  
United States Marshal for the  
Southern District of California



1 UNITED STATES OF AMERICA )  
2 Southern District of California ) ss.

3 JAMES J. BOYLE, United States Marshal for the Southern District of  
4 California, being first duly sworn, on his oath deposes and says:

5 That he is the person who makes the aforesaid return; that he has read  
6 the same and knows the contents thereof, and that the same is true according  
7 to the best of his knowledge and belief.

*James J. Boyle*  
JAMES J. BOYLE

8  
9  
10  
11  
12 SUBSCRIBED and SWORN to before me

13 this 6<sup>th</sup> day of September, 1951.

14 EDMUND L. SMITH  
15 Clerk, United States District Court  
Southern District of California

16 By Charles A. Sert Deputy  
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IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

February, 1951, Grand Jury

FILED  
JULY 31, 1951  
EDMUND L. SMITH, CLERK  
By Maxine Lewis, Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM SCHNEIDERMAN,  
DOROTHY ROSENBLUM HEALEY,  
ALBERT JASON LIMA,  
OLETA O'CONNOR YATES,  
CARL RUDE LAMBERT,  
PHILIP MARSHALL CONNELLY,  
ROSE CHERNIN KUSNITZ,  
AL RICHMOND, also known as  
Abraham Richman,  
ERNEST OTTO FOX, also known as  
Ernest Otto Fuchs,  
HENRY STEINBERG,  
LORETTA STARVUS STACK, and  
MARY BERNADETTE DOYLE,

Defendants.

No. 21883 CD

[U.S.C., Title 18, Sec. 11 (1946 Ed.);  
U.S.C., Title 18, Sec. 371 (1948 Ed.);  
Section 3 of the Smith Act, 54 Stat. 671-  
Conspiracy to violate the Smith Act]

INDICTMENT

The grand jury charges:

(1) From and on or about April 1, 1945, and continuously thereafter  
up to and including the date of the filing of this indictment, in the Southern  
District of California, and elsewhere, WILLIAM SCHNEIDERMAN, DOROTHY ROSENBLUM  
HEALEY, ALBERT JASON LIMA, OLETA O'CONNOR YATES, CARL RUDE LAMBERT, PHILIP  
MARSHALL CONNELLY, ROSE CHERNIN KUSNITZ, AL RICHMOND, also known as Abraham  
Richman, ERNEST OTTO FOX, also known as Ernest Otto Fuchs, HENRY STEINBERG,  
LORETTA STARVUS STACK, and MARY BERNADETTE DOYLE, the defendants herein,  
unlawfully, wilfully, and knowingly did conspire with each other and with  
William Z. Foster, Eugene Dennis, John B. Williamson, Jacob Stachel, Robert  
G. Thompson, Benjamin J. Davis, Jr., Henry Winston, John Gates, Irving Potash,  
Gilbert Green, Carl Winter, and Gus Hall, co-conspirators but not defendants

1 herein, and with divers other persons to the grand jury unknown, to commit  
2 offenses against the United States prohibited by Section 2 of the Smith Act,  
3 54 Stat. 671; 18 U.S.C. (1946 Ed.) 10, and 18 U.S.C. (1948 Ed.) 2385, by so  
4 conspiring (1) unlawfully, wilfully, and knowingly to advocate and teach the  
5 duty and necessity of overthrowing the Government of the United States by  
6 force and violence, and (2) unlawfully, wilfully, and knowingly to organize  
7 and help organize as the Communist Party of the United States of America a  
8 society, group, and assembly of persons who teach and advocate the overthrow  
9 and destruction of the Government of the United States by force and violence,  
10 in violation of Section 3 of the Smith Act, 54 Stat. 671, 18 U.S.C. (1946 Ed.)  
11 11, and 18 U.S.C. (1948 Ed.) 371;

12 (2) It was part of said conspiracy that said defendants and  
13 co-conspirators would become members, officers, and functionaires of said Party,  
14 knowing the purposes of the Party, and in such capacities would assume leader-  
15 ship in said Party and responsibility for carrying out its policies and  
16 activities up to and including the date of the filing of this indictment;

17 (3) It was further part of said conspiracy that said defendants and  
18 co-conspirators would cause to be organized Groups, Clubs, Sections, District  
19 and State Units of said Party in the State of California and elsewhere and  
20 would recruit and encourage recruitment of members of said Party, concentrating  
21 on recruiting persons employed in key basic industries and plants;

22 (4) It was further a part of said conspiracy that said defendants  
23 and co-conspirators would publish and circulate and cause to be published  
24 and circulated books, articles, magazines, and newspapers teaching and  
25 advocating the duty and necessity of overthrowing and destroying the Government  
26 of the United States by force and violence;

27 (5) It was further a part of said conspiracy that said defendants  
28 and co-conspirators would write and cause to be written articles and directives  
29 in publications of the Communist Party of the United States of America  
30 including, but not limited to, "Political Affairs," "Daily People's World,"  
31 "Daily Worker," and "The Worker," teaching and advocating the necessity of  
32 overthrowing and destroying the Government of the United States by force  
and violence;



1 (6) It was further a part of said conspiracy that said defendants  
2 and co-conspirators would conduct and cause to be conducted schools and  
3 classes for indoctrination of recruits and members of said Party in the  
4 principles of Marxism-Leninism in which would be taught and advocated the  
5 duty and necessity of overthrowing and destroying the Government of the  
6 United States by force and violence as speedily as circumstances permit;

7 (7) It was further a part of said conspiracy that said defendants  
8 and co-conspirators would agree upon and carry into effect detailed plans  
9 for the vital parts of the Communist Party of the United States of America  
10 to go underground in the event of emergency and from said underground  
11 position to continue in all respects the conspiracy described in paragraph (1);

12 (8) It was further a part of said conspiracy that said defendants  
13 and co-conspirators would use false names, passports, and other false documents  
14 in order to conceal their identities and activities as members and function-  
15 aries of said Party;

16 (9) It was further a part of said conspiracy that said defendants  
17 and co-conspirators would do other and further things to conceal the existence  
18 and operations of said conspiracy; and

19 In pursuance of said conspiracy and to effect the objects thereof,  
20 in the Southern District of California, the defendants and co-conspirators  
21 did commit, among others, the following

22 OVERT ACTS:

23 1. On or about July 17 and 18, 1948, WILLIAM SCHNEIDERMAN, DOROTHY  
24 ROSENBLUM HEALEY, ALBERT JASON LIMA, OLETA O'CONNOR YATES, CARL RUDE  
25 LAMBERT, AL RICHMOND, also known as Abraham Richman, LORETTA STARVUS STACK, and  
26 MARY BERNADETTE DOYLE, defendants herein, did attend and participate in  
27 a Convention of the Communist Party of the State of California at Park Manor,  
28 Sixth Street and Western Avenue, Los Angeles, California;

29 2. On or about August 20, 1948, MARY BERNADETTE DOYLE, a defendant  
30 herein, did attend and participate in a meeting of the Morgan Hull Club in  
31 San Diego, California;

1 3. On or about August 21, 1948, LORETTA STARVUS STACK, a defendant  
2 herein, did prepare and issue a directive and cause it to be circulated by  
3 the California State Committee of the Communist Party;

4 4. On or about August 21, 1948, AL RICHMOND, also known as Abraham  
5 Richman, a defendant herein, did issue a directive and cause it to be  
6 circulated by the California State Committee of the Communist Party;

7 5. On or about January 21, 1949, HENRY STEINBERG, a defendant  
8 herein, did attend and participate in a meeting;

9 6. On or about May 20, 1949, ROSE CHERNIN KUSNITZ, a defendant  
10 herein, did attend and participate in a meeting held at 847 South Grand  
11 Avenue, Los Angeles, California;

12 7. On or about December 7, 1949, WILLIAM SCHNEIDERMAN and DOROTHY  
13 ROSENBLUM HEALEY, defendants herein, did attend and participate in a meeting  
14 at Park View Manor, 2200 West Seventh Street, Los Angeles, California;

15 8. On or about January 20, 1950, WILLIAM SCHNEIDERMAN, a defendant  
16 herein, did attend and participate in a meeting at Embassy Auditorium,  
17 Los Angeles, California;

18 9. On or about February 15, 1950, MARY BERNADETTE DOYLE, a defendant  
19 herein, did attend and participate in a meeting held at 7891 Normandie Street,  
20 San Diego, California;

21 10. On or about April 6, 1950, WILLIAM SCHNEIDERMAN, a defendant  
22 herein, did attend and participate in a meeting at 3875 City Terrace Boulevard  
23 Los Angeles, California;

24 11. On or about June 12, 1950, ALBERT JASON LIMA, a defendant herein,  
25 did attend and participate in a meeting at 2200 West Seventh Street, Los  
26 Angeles, California;

27 12. On or about June 24, 1950, PHILIP MARSHALL CONNELLY, MARY  
28 BERNADETTE DOYLE, and ALBERT JASON LIMA, defendants herein, did attend and  
29 participate in a meeting at Park Manor, 607 South Western Avenue, Los Angeles,  
30 California;

31 13. On or about November, 1950, ERNEST OTTO FOX, also known as Ernest  
32 Otto Fuchs, a defendant herein, did prepare and issue a directive and cause it  
to be circulated;

1 14. On or about April 9, 1951, CARL RUDE LAMBERT, a defendant herein,  
2 did attend and participate in a meeting at 405 De La Guerra Street, Santa  
3 Barbara, California;

4 15. On or about July 24, 1951, OLETA O'CONNOR YATES, a defendant  
5 herein, did attend and participate in a meeting at 124 West Sixth Street,  
6 Los Angeles, California.

7  
8  
9  
10 A TRUE BILL

11  
12 Robert B. Young, -III  
Foreman

13 Ernest A. Tolin  
14 ERNEST A. TOLIN,  
United States Attorney.



3  
*Stipulation and Order of Consolidation*

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

LORETTA STARVUS STACK,

Petitioner,

vs.

No. 13436

JAMES J. BOYLE, United  
States Marshal,

Respondent.

AL RICHMOND,

Petitioner,

vs.

No. 13437

JAMES J. BOYLE, United  
States Marshal,

Respondent.

PHILIP MARSHALL CONNELLY,

Petitioner,

vs.

No. 13438

JAMES J. BOYLE, United  
States Marshal,

Respondent.

1 DOROTHY ROSENBLUM HEALEY,

2 Petitioner,

3 vs.

No. 13439

4 JAMES J. BOYLE, United  
5 States Marshal,

6 Respondent.

7 ERNEST OTTO FOX,

8 Petitioner,

9 vs.

No. 13440

10 JAMES J. BOYLE, United  
11 States Marshal,

12 Respondent.

13 WILLIAM SCHNEIDERMAN,

14 Petitioner,

15 vs.

No. 13441

16 JAMES J. BOYLE, United  
17 States Marshal,

18 Respondent.

19 CARL RUDE LAMBERT,

20 Petitioner,

21 vs.

No. 13442

22 JAMES J. BOYLE, United  
23 States Marshal,

24 Respondent.

25 HENRY STEINBERG,

26 Petitioner,

27 vs.

No. 13443

28 JAMES J. BOYLE, United  
29 States Marshal,

30 Respondent.

31

32

1 OLITA O'CONNOR YATES,

2 Petitioner,

3 vs.

No. 13444

4 JAMES J. BOYLE, United  
5 States Marshal,

6 Respondent.

7 ROSE CHERNIN KUSNITZ,

8 Petitioner,

9 vs.

No. 13445

10 JAMES J. BOYLE, United  
11 States Marshal,

12 Respondent.

13 MARY BERNADETTE DOYLE,

14 Petitioner,

15 vs.

No. 13446

16 JAMES J. BOYLE, United  
17 States Marshal,

18 Respondent.

19 ALBERT JASON LIMA,

20 Petitioner,

21 vs.

No. 13447

22 JAMES J. BOYLE, United  
23 States Marshal,

24 Respondent.

25  
26 STIPULATION

27  
28 IT IS HEREBY STIPULATED, CONSENTED AND AGREED by and between  
29 the attorneys for petitioners above named and the attorneys for the  
30 respondent herein, that the petitions for writs of habeas corpus  
31 in the above entitled causes shall be consolidated and treated as  
32



1 a joint petition for writ of habeas corpus.

2 DATED: This 6th day of September, 1951.

3  
4 /s/ Ben Margolis  
5 Ben Margolis

6  
7 /s/ Daniel G. Marshall  
8 Daniel G. Marshall

9 Attorneys for Petitioner Philip  
10 Marshall Connolly

11 MARGOLIS and McTERNAN

12 By /s/ Ben Margolis  
13 Ben Margolis

14 /s/ Leo A. Sullivan  
15 Leo A. Sullivan

16 Attorneys for remaining Petitioners

17 ERNEST A. TOLIN  
18 United States Attorney

19 By /s/ Ray H. Kinnison  
20 Ray H. Kinnison  
21 Assistant United States Attorney

22 Attorneys for Respondent.

23 ORDER:

24 It is so ordered.

25  
26 /s/ Ben Harrison  
27 JUDGE of the United States District Court

1  
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8 IN THE DISTRICT COURT OF THE UNITED STATES  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10 CENTRAL DIVISION  
11

12 LORETTA STARVUS STACK,

13 Petitioner,

No. 13436-BH

14 vs.

15 JAMES J. BOYLE, United  
16 States Marshal,

Respondent.  
17

18 AL RICHMOND,

19 Petitioner,

No. 13437-BH

20 vs.

21 JAMES J. BOYLE, United  
22 States Marshal,

Respondent.  
23

24 PHILIP MARSHALL CONNELLY,

25 Petitioner,

No. 13438-BH

26 vs.

27 JAMES J. BOYLE, United  
28 States Marshal,

Respondent.  
29  
30  
31  
32

1 DOROTHY ROSENBLUM HEALEY,

2 Petitioner,

No. 13439-BH

3 vs.

4 JAMES J. BOYLE, United  
5 States Marshal,

6 Respondent.

7 ERNEST OTTO FOX,

8 Petitioner,

No. 13440-BH

9 vs.

10 JAMES J. BOYLE, United  
11 States Marshal,

12 Respondent.

13 WILLIAM SCHNEIDERMAN,

14 Petitioner,

No. 13441-BH

15 vs.

16 JAMES J. BOYLE, United  
17 States Marshal,

18 Respondent.

19 CARL RUDE LAMBERT,

20 Petitioner,

No. 13442-BH

21 vs.

22 JAMES J. BOYLE, United  
23 States Marshal,

24 Respondent.

25 HENRY STEINBERG,

26 Petitioner,

No. 13443-BH

27 vs.

28 JAMES J. BOYLE, United  
29 States Marshal,

30 Respondent.



1. CLETA O'CONNOR YATES,

Petitioner,

No. 13444-BH

vs.

JAMES J. BOYLE, United  
States Marshal,

Respondent.

ROSE CHERNIN KUSNITZ,

Petitioner,

No. 13445-BH

vs.

JAMES J. BOYLE, United  
States Marshal,

Respondent.

MARY BERNADETTE DOYLE,

Petitioner,

No. 13446-BH

vs.

JAMES J. BOYLE, United  
States Marshal,

Respondent.

ALBERT JASON LIMA,

Petitioner,

No. 13447-BH

vs.

JAMES J. BOYLE, United  
States Marshal,

Respondent.

MEMORANDUM OPINION

The above petitions for writs of habeas corpus were consolidated for hearing and the sole question for this court to determine in each matter is whether the bail of \$50,000 is excessive, and by reason thereof petitioners are unlawfully deprived of their liberty contrary to the provisions of the Eighth Amendment to the

1 Constitution of the United States.

2 It appears from the records of this court and the tran-  
3 script of various proceedings that the question of bail as to some  
4 of the petitioners has been before two district judges of this dis-  
5 trict, one in San Francisco (Judge Goodman), and one in New York  
6 (Judge Dimock). (See Cr. file No. 21883 of this district).

7 Now through these proceedings petitioners seek to have  
8 me ignore the record, absolutely strike from my mind the separate  
9 rulings by four district judges, and indirectly hold that the bail  
10 fixed is excessive and each of said judges has abused the dis-  
11 cretion vested in him.

12 Counsel for petitioners claim that bail in excess of  
13 \$5,000 would be prohibitive, therefore, the court should fix bail  
14 in that amount. In other words, petitioners contend that bail  
15 should be fixed in accordance with their ability to furnish bail.  
16 To follow their argument to a natural conclusion, if they could  
17 raise bail in an amount not in excess of \$10, the bail should be  
18 so fixed. If such a rule were adopted all prisoners now waiting  
19 for trial on bailable offenses would be entitled to have bail  
20 fixed in accordance with their respective abilities.

21 As stated in U. S. ex rel. Rubinstein v. Mulcahy etc.,  
22 155 F. (2d) 1002: "The purpose of bail before trial is to insure  
23 the presence of the accused when required without the hardship of  
24 incarceration before guilt has been proved and while the presump-  
25 tion of innocence is to be given effect." (See also Rule 46(c)  
26 F.R.C.P.).

27 How much should the bail of petitioners be to meet the  
28 requirements of the foregoing quotation? The Grand Jury that heard  
29 the evidence recommended \$75,000. How can I say that all who have  
30 exercised their discretion are wrong because I may or may not agree  
31 with them?

32 When a person is released on bail before trial such per-

1 son is a calculated risk and the amount of bail resolves itself  
2 into a matter of judgment. Sometimes the courts are wrong, but  
3 fortunately the defendants usually appear. The offenses charged  
4 are very serious and the court realizes as a matter of common  
5 knowledge that those charged with similar and related offenses the  
6 forfeitures have been above average and apprehension after for-  
7 feiture has been nil. Should the court ignore these facts?

8 Perhaps through these proceedings our reviewing courts  
9 can furnish the trial courts with a yardstick to determine the  
10 amount of bail required to assure the presence at the time of  
11 trial of the petitioners and others similarly charged. My only  
12 hope is that their judgment on such calculated risks may be cor-  
13 rect.

14 I have ordered the transcript of the proceedings before  
15 Judge Mathes filed as an exhibit in these proceedings, together  
16 with the records of the court on the motions for reduction of bail  
17 before him in the criminal case, and have admitted in evidence the  
18 transcript of the proceedings in Healey et al. v. Boyle, No. 13361  
19 to No. 13370. I have examined such proceedings and have consid-  
20 ered the same and am unable to conclude that the amount of bail,  
21 fixed in each instance is either arbitrary or the result of an  
22 abuse of discretion. I further find that such amounts as were  
23 fixed are necessary to assure the presence of the petitioners in  
24 the further proceedings in the criminal case and for no other pur-  
25 pose.

26 The procedure followed in these matters is that outlined  
27 in the Rubenstein case (155 F. (2d) 1002). The record herein in-  
28 dicates that such procedure is cumbersome and unnecessarily delays  
29 the ultimate disposition of matters that are entitled to expedi-  
30 tious action by the courts.

31 I make these comments not in criticism of the present  
32 method but rather as an invitation to our reviewing courts to



1 provide a more expeditious procedure. With my ruling in this case,  
2 five district judges have passed on the reasonableness of the  
3 amount of bail. If we are in error petitioners have had to  
4 languish in jail to meet the requirements of legal formalism.

5 The petition for writ of habeas corpus in each matter is  
6 hereby denied and the petition in each instance is hereby dis-  
7 missed.

8 The government is ordered to submit forthwith proposed  
9 order of dismissal of said petitions.

10 DATED: This 12th day of September, 1951.

11  
12 /s/ Ben Harrison

13 JUDGE  
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1 ERNEST A. TOLIN  
2 United States Attorney  
3 RAY H. KINNISON  
4 Assistant U. S. Attorney  
5 Chief of Criminal Division

6 600 Federal Building  
7 Los Angeles 12, California  
8 Telephone: MADison 7411

9 Attorneys for Respondent

10 IN THE UNITED STATES DISTRICT COURT  
11 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
12 CENTRAL DIVISION

13 LORETTA STARVUS STACK, AL  
14 RICHMOND, PHILIP MARSHALL  
15 CONNELLY, DOROTHY ROSENBLUM  
16 HEALEY, ERNEST OTTO FOX,  
17 WILLIAM SCHNEIDERMAN, CARL  
18 RUDE LAMBERT, HENRY STEINBERG,  
19 OLETA O'CONNOR YATES, ROSE  
20 CHERNIN KUSNITZ, MARY BERNADETTE  
21 DOYLE, and ALBERT JASON LIMA,

22 Petitioners,

23 v.

24 JAMES J. BOYLE, United  
25 States Marshal,

26 Respondent.

Nos. 13436/13447

ORDER DENYING PETITIONS FOR  
WRITS OF HABEAS CORPUS AND  
DISCHARGING ORDERS TO SHOW  
CAUSE WHY WRITS OF HABEAS  
CORPUS SHOULD NOT BE GRANTED

27 The above-entitled matters came on regularly for hearing on  
28 September 6, 1951, before the Honorable Ben Harrison, Judge presid-  
29 ing. On Orders to Show Cause Why Writs of Habeas Corpus should not  
30 be granted, the petitioner Philip Marshall Connelly being represent-  
31 ed by his attorneys, Ben Margolis, Esq., and Daniel G. Marshall,  
32 Esq. and the remaining petitioners by their attorneys Margolis and  
McTernan, Esqs., by Ben Margolis, Esq., and the respondent, James  
J. Boyle, being represented by his counsel, Ernest A. Tolin, United  
States Attorney for the Southern District of California, and Ray H.  
Kinnison, Assistant United States Attorney for the Southern District  
of California, and A. L. Wirin, Esq., appearing as amicus curiae; the

1 Court having ordered upon the stipulation of the attorneys for the  
2 respective parties that the petitions for writs of habeas corpus  
3 be consolidated and treated as a joint petition for writ of habeas  
4 corpus; and the Court having read the petitions for Writs of Habeas  
5 Corpus on file, the Return thereto filed by the respondent to said  
6 petitions for Writs of Habeas Corpus herein; and the Court finding  
7 that on July 31, 1951, and prior to the hearing herein, a True Bill  
8 of indictment was returned in this Court before Judge James M.  
9 Carter, by the Grand Jury for the Southern District of California,  
10 charging the petitioners and others with conspiracy to commit of-  
11 fenses against the United States prohibited by Section 2 of the  
12 Smith Act, 54 Stat. 671, 18 U.S.C. (1946 ed.) 10, and 18 U.S.C.  
13 (1948 ed.) 2385, and said indictment having been ordered filed  
14 under Case No. 21883-CD, and on recommendation of said Grand Jury,  
15 Judge James M. Carter then set bail for the petitioner William  
16 Schneiderman in the amount of \$100,000 and in the amount of \$75,000  
17 for the remaining petitioners, and thereafter, on the 7th day of  
18 August, 1951, petitioners filed with said Judge James M. Carter a  
19 motion to reduce the amount of bail; that the said Judge James M.  
20 Carter on August 29, 1951 disqualified himself from any further  
21 proceedings in the prosecution of the petitioners herein including  
22 proceedings on bail; that the said proceedings were then assigned  
23 by Chief Judge Paul J. McCormick to Judge William C. Mathes and the  
24 aforesaid motions to reduce bail came on for hearing before the said  
25 Judge William C. Mathes, and following a full hearing on said motions  
26 Judge William C. Mathes on August 30, 1951 did reduce the amount of  
27 bail for each of the petitioners to \$50,000, and the Court having  
28 taken testimony on the petition herein and having heard arguments,  
29 and the Court being fully advised in the premises, and it appearing  
30 to the satisfaction of the Court, and the Court finding for the  
31 reasons aforesaid that the relief prayed for in the aforesaid peti-  
32 tions for Writs of Habeas Corpus should not be granted, that the



1 orders to show cause why the petitions for writ of habeas corpus  
2 should not be granted should be discharged, and that said Petitions  
3 for Writs of Habeas Corpus should be denied, and said cause having  
4 been submitted to the Court for decision;

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the aforesaid  
6 Petitions for Writs of Habeas Corpus heretofore filed in the above  
7 entitled matters be, and the same hereby are, denied; and

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the aforesaid  
9 Orders to show Cause why the Petitions for Writs should not be  
10 granted be; and the same hereby, are discharged.

11 DATED: This 6th day of September, 1951.

12  
13 /s/ Ben Harrison  
14 United States District Judge

15 Received copy of the within  
16 Order Denying Petitions for  
17 Writs of Habeas Corpus, Dis-  
18 charging Orders to Show Cause,  
19 and Dismissing Writ of Habeas  
20 Corpus this 6th day of Septem-  
21 ber 1951, and approved as to  
22 form.

23 Ben Margolis

24 Daniel G. Marshall

25 Attorneys for Petitioner Philip  
26 Marshall Connelly

27 MARGOLIS and McTERNAN

28 By Ben Margolis

29 Attorneys for remaining Petitioners  
30  
31  
32

1 Ben Margolis  
112 West Ninth Street  
2 Los Angeles 15, California  
Vandike 7153  
3 and  
4 Daniel G. Marshall  
458 South Spring Street  
Los Angeles 13, California  
5 TRinity 6011

Margolis and McTernan 3  
112 West Ninth Street  
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Vandike 7153  
and  
Leo A. Sullivan  
1440 Broadway Street  
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6 Attorneys for Petitioner- Appellant Philip Marshall Connelly  
7  
8 Attorneys for remaining Petitioners-Appellants

8 IN THE UNITED STATES DISTRICT COURT  
9 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
10 CENTRAL DIVISION  
11

12 LORETTA STARVUS STACK, AL  
13 RICHMOND, PHILIP MARSHALL  
14 CONNELLY, DOROTHY ROSENBLUM  
15 HEALEY, ERNEST OTTO FOX,  
16 WILLIAM SCHNEIDERMAN, CARL  
RUDE LAMBERT, HENRY STEINBERG,  
OLETA O'CONNOR YATES, ROSE  
CHERNIN KUSNITZ, MARY BERNADETTE  
DOYLE and ALBERT JASON LIMA,

Nos. 13436/13447

Petitioners-Appellants,

NOTICE OF APPEAL

vs.

19 JAMES J. BOYLE, United States  
Marshal,

Respondent.

23 NOTICE IS HEREBY GIVEN that the petitioners-appellants

24 above named hereby appeal to the United States Court of Appeals  
25 for the Ninth Circuit from the order denying the petitions for  
26 writs of habeas corpus herein and discharging the orders to  
27 show cause why the petitions for writs should not be granted,  
28 made and entered in this action by the United States District  
29 Court, Honorable Ben Harrison, Judge Presiding, on the 6th day  
30 of September, 1951.

31 DATED: This 6th day of September, 1951.



/s/ Ben Margolis  
Ben Margolis  
/s/ Daniel G. Marshall  
Daniel G. Marshall  
Attorneys for Petitioner-Appellant  
Philip Marshall Connelly

MARGOLIS and McTERNAN

By /s/ Ben Margolis  
Ben Margolis

/s/ Leo A. Sullivan  
Leo A. Sullivan

Attorneys for remaining Petitioners-  
Appellants

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Vandike 7153  
3 and  
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Philip Marshall Connelly

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Vandike 7153  
and  
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1440 Broadway Street  
Oakland, California  
Hightower 4-1707  
Attorneys for remaining  
Petitioners

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

11 LORETTA STARVUS STACK, AL  
12 RICHMOND, PHILIP MARSHALL,  
13 CONNELLY, DOROTHY ROSENBLUM  
14 HEALEY, ERNEST OTTO FOX,  
15 WILLIAM SCHNEIDERMAN, CARL  
RUDE LAMBERT, HENRY STEINBERG,  
OLETA O'CONNOR YATES, ROSE  
CHERNIN KUSNITZ, MARY BERNADETTE  
DOYLE and ALBERT JASON LIMA,

Petitioners,

vs.

18 JAMES J. BOYLE, United  
States Marshal,

Respondent.

Nos. 13436/13447

DESIGNATION OF RECORD

22 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
23 SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION: ERNEST A. TOLIN

24 UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA:

25 The petitioners above named designate for inclusion in the  
26 record on appeal herein a complete record of all the proceedings  
27 and evidence in the above entitled causes including the petitions  
28 for writs of habeas corpus, the orders to show cause, the stipula-  
29 tion and order treating the petitions as a joint petition for writ  
30 of habeas corpus, the return of the respondent, the reporter's  
31 transcript of hearing on September 6, 1951, the order denying the  
32 petitions and discharging the orders to show cause, the notice of



1 appeal, this designation of the record and any stipulations  
2 between the parties relative to the record on appeal herein or  
3 the argument of the appeal.

4 DATED: September 6, 1951.

5  
6 /s/ Ben Margolis  
Ben Margolis

7  
8 /s/ Daniel G. Marshall  
Daniel G. Marshall

9 Attorneys for Petitioner Philip  
Marshall Connelly

11 MARGOLIS and McTERNAN

12 By /s/ Ben Margolis  
Ben Margolis

13  
14 /s/ Leo A. Sullivan  
Leo. A. Sullivan

15 Attorneys for remaining Petitioner

16  
17 Agreed to:

18  
19 United States Attorney  
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